

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED FOOD AND
COMMERCIAL WORKERS UNION,
LOCAL No. 663, *et al.*,

Case No. 0:19-cv-02660-JNE-TNL

**PLAINTIFFS' NOTICE OF
SUPPLEMENTAL AUTHORITY**

Plaintiffs,

v.

UNITED STATES DEPARTMENT
OF AGRICULTURE,

Defendant.

Plaintiffs hereby notify the Court of supplemental authority in support of their opposition to Defendant USDA's Motion to Stay Summary-Judgment Proceedings and for Voluntary Remand (ECF 40).

On June 24, 2020, USDA's Office of Inspector General (OIG) issued a report, attached, concluding that the worker safety analysis relied upon in Defendant's Motion, *see* ECF 42 at 6, 21-22, did not conform with data reliability standards or public disclosure requirements. *See* OIG, USDA, FSIS Rulemaking Process for the Proposed Rule: Modernization of Swine Slaughter Inspection, Inspection Report 24801-0001-41, at 2 (June 24, 2020). In light of the OIG report, that analysis cannot be used to support Defendant's motion to stay and remand. Moreover, OIG's conclusions show that, not only is it impermissible for USDA to advance a new

reason to support its rule on remand, *see Department of Homeland Security v. Regents of the University of California*, No. 18-587, 2020 WL 3271746, at *9 (U.S. June 18, 2020), it also cannot rely on the existing record, given the flawed analysis and the agency's failure to comply with public disclosure requirements.

Dated: June 25, 2020

Respectfully submitted,

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